

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

JUN 27 2005

JOHN F. CORCORAN, CLERK
BY: *J. F. Corcoran*
DEPUTY CLERK

SHERRY LYNN ANDERSON,

Plaintiff,

v.

SPRING GROVE DISTRIBUTORS, INC.,

Defendants.

CIVIL ACTION No. 6:04-CV-00065

ORDER AND OPINION

JUDGE NORMAN K. MOON

This matter is before the Court on Defendant's Motion to Dismiss, filed May 27, 2005. Defendant moves to dismiss Plaintiff's complaint for lack of personal jurisdiction, improper venue, and insufficient service of process. For the reasons stated below, the Court GRANTS Defendant's Motion and Plaintiff's action is DISMISSED WITHOUT PREJUDICE.

This Court does not have personal jurisdiction over Defendant in this case. Defendant Spring Grove Distributors, Inc., is incorporated in the state of Illinois with its principal and sole place of business in Illinois. Plaintiff is bringing this lawsuit for conduct that allegedly occurred in Illinois. Defendant has no contacts with and does no business in Virginia. Therefore, Defendant has no contacts with Virginia which would subject it to jurisdiction under the Virginia long-arm statute, Va. Code § 8.01-328.1, nor does Defendant have sufficient minimum contacts with Virginia to satisfy the requirements of due process. Therefore, this case should be

dismissed for lack of personal jurisdiction over Defendant. Venue also is improper in this Court. The sole defendant in this case does not reside or cannot be found in the Western District of Virginia, and a substantial part of the events giving rise to the claim did not occur in this judicial district. *See* 28 U.S.C. § 1391(b). In addition, Defendant is not subject to personal jurisdiction in Virginia. *Id.* § 1391(c). Thus, this case should be dismissed for improper venue. Finally, Plaintiff's claim should be dismissed for improper service because Plaintiff failed to properly execute service on Defendant under Federal Rule of Civil Procedure 4(m).

For the reasons above, Defendant's Motion to Dismiss is GRANTED and Plaintiff's claim is DISMISSED WITHOUT PREJUDICE.

The Clerk of the Court is directed to send a copy of this Order to all parties. The Clerk is further directed to dismiss this case from the docket of the Court.

ENTERED:

Norman A. Mow
U.S. District Judge

June 27, 2005
Date